IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1028 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

Shri Kasam Amad

Versus

State of Gujarat and ors.

Appearance:

Ms. Sangeeta V. Chin, for M/s. Trivedi & Gupta
for the petitioner
Mr. H.H.Patel, AGP for Respondents.

Coram: S.K.Keshote, J.
Dt. of decision 9.2.2001.

ORAL JUDGEMENT

Heard learned Counsel for the parties.

The petitioner is praying for quashing and setting aside the Circular dated 20.6.1983 at Annexure "D" to the petition as violative of the fundamental rights guaranteed to the petitioner under Articles 14, 16 and 19 of the Constitution. The petitioner also seeks a direction to the respondents to treat the petitioner as permanent and confirmed employee in view of his length of service and to grant all the benefits available to the permanent employees of the respondents.

A prayer has also been made for the grant of interim relief.

This matter was admitted on 19.8.1986 and interim relief in terms of paragraph 17 (D) has been granted. The petitioner by virtue of this order of grant of interim relief in his favour continues in service till date, as stated by the learned Counsel for the petitioner.

The order of this Court dated 19.2.1986 needs to be referred also. The respondents were given liberty to terminate services of the petitioner in accordance with law. It is not the case of the respondents that the services of the petitioner were terminated.

The respondents also did not dispute that the petitioner continues in service.

In fact, as usual what the officers of impersonal machinery of State of Gujarat are doing, reply to the Special Civil Application has also not been filed. It is unfortunate that despite paying high salaries to the officers by the impersonal machinery of State of Gujarat, they do not care for the matters and for want of the reply, the only consequence falls therefrom is to accept the statements of fact made by the petitioner to be correct.

This petition has been filed in the year 1986 and since last more than 14 years the petitioner is in service, though under the order of this Court. In paragraph No.4.1 the petitioner has made a statement of fact that he is working right from 26th May, 1981 on daily wages. As there appears no permanent accountability cell in the Government, these officers are not taking the judicial matter seriously. If Government lost a case in the Court because of recklessness, negligence, callous attitude or unmindful of their duties of its officers it is a loss to the public at large. The

State is governed by the people, as it is for the people of the people and by the people and for this loss suffered by the people, the officer concerned has to make good. It is unfortunate that nobody bothers and concern at Gandhinagar for this loss and the public money suffers everyday because of negligence, recklessness, carelessness and callous attitude of its officers. This is a matter for the consideration of the Government at Gandhinagar and not for the Court.

2. In many cases earlier I had an occasion to deal with the resolution of the State of Gujarat dated 17th October, 1988 which may also apply to the Irrigation Department. A Scheme has been given out thereunder to confirm manifold benefits as enumerted therein to the dailywagers employees who are in continuous service on 1st October, 1989. If we go by the facts of this case, the petitioner was entered in the service of the respondent in the year 1981 and whatever may be the reason he continues in the service till date.

3. This petition is disposed of in the terms that the case of the petitioner be considered by the respondent No.1 in the light of the resolution of the Government dated 17th October, 1988 and where he is found entitled for the benefits as enumerated therein the same are to be given to him. Where he is found not entitled for any benefits, a reasoned order may be passed and the copy of the same be sent to the petitioner by Registered post A.D. This action has to be undertaken and completed by the respondent No.1 within two months from the date of receipt of the writ of this order. This Special Civil Application and rule stand disposed of accordingly with no order as to costs. In case where the decision of the respondent No.1 goes adverse to the petitioner, liberty is granted to the petitioner for revival of this petition by filing a simple note.

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